

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

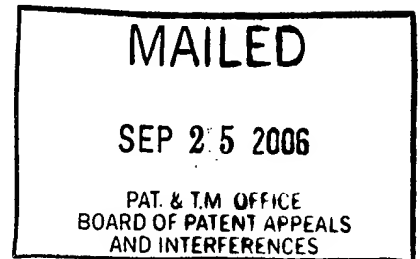
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LLAVANYA X. FERNANDO, G.F.R. SULAK SOYSA
and ROBERT W. WILMOT

Appeal No. 2006-2219
Application No. 09/887,150¹

ON BRIEF



Before RUGGIERO, SAADAT, and HOMERE, Administrative Patent Judges.
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-6, which constitute all of the claims pending in this application.

We affirm.

¹ Application for patent filed June 21, 2001, which claims the filing priority benefit under 35 U.S.C. § 119 of Provisional Application No. 60/252,800, filed November 21, 2000.

BACKGROUND

Appellants' invention is directed to an apparatus and method for confirming to the user the security of data to be entered on a payment device, such as a touch pad, during a transaction. According to Appellants, displaying a secure icon on a separately controlled display ensures that the identification data entered by the user is indeed entered on a secure screen (specification, pages 6-8). An understanding of the invention can be derived from a reading of exemplary independent claim 1, which is reproduced as follows:

1. A data-entry apparatus comprising:
 - a device for entering data;
 - a display for displaying information confirming the security of the data-entry apparatus; and
 - an encryption circuit, communicatively coupled to the data-entry device and the display.

The Examiner relies on the following references:

Bilger et al. (Bilger)	6,317,835	Nov. 13, 2001 (filed Dec. 23, 1998)
Chasko et al. (Chasko)	6,715,078	Mar. 30, 2004 (filed Mar. 28, 2000)

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Claims 1-4 and 6 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bilger.²

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Bilger and Chasko.

Rather than reiterate the opposing arguments, reference is made to the briefs and answer for the respective positions of Appellants and the Examiner. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the briefs have not been considered (37 CFR § 41.37(c)(1)(vii)).

OPINION

With respect to the 35 U.S.C. § 102 rejection of the claims, Appellants argue that Bilger merely provides a secure communication between the touch screen system and a recipient of the PIN information whereas the claimed invention is directed to indicating the security of the data entry device to the user (brief, page 5). In that regard, Appellants assert that changing the screen to a PIN pad in Bilger is insufficient to indicate

² The Examiner has modified the final rejection of claim 3 as one under 35 U.S.C. § 103 over Bilger and White to one under 35 U.S.C. § 102(e) as anticipated by Bilger in the answer.

successful transition to the encryption PIN mode (id.). The Examiner responds by stating that displaying the PIN pad allows the user to confirm that the device is switched to encryption mode and is ready to take confidential information (answer, page 6). The Examiner apparently characterizes the "PIN mode" as secure mode since the user knows that the PIN pad is displayed only in its secure mode (id.).

Appellants further argue that even in its encryption mode, the device of Bilger does not constitute a check to ensure that the system has not been compromised (brief, page 6; reply brief, page 3). The Examiner responds by asserting that the display of the PIN pad provides certain level of confidence that the device is ready to take sensitive information (answer, page 7).

Initially, we note that a rejection for anticipation requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See Atlas Powder Co. v. Ireco Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). The inquiry as to whether a reference anticipates a claim must focus on what

subject matter is encompassed by the claim and what subject matter is described by the reference. As set forth by the court in Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), it is only necessary for the claims to "'read on' something disclosed in the prior art reference, i.e., all limitations of the claim are found in the reference, or 'fully met' by it." See also Atlas Powder Co. v. IRECO Inc., 190 F.3d at 1346, 51 USPQ2d at 1945 (Fed. Cir. 1999) (quoting Titanium Metals Corp. v. Banner, 778 F.2d 775, 781, 227 USPQ 773, 778 (Fed. Cir. 1985)).

We observe that, in interpreting the claims, the Examiner characterizes displaying the PIN pad as the claimed "displaying information confirming the security of the data-entry." To determine whether the Examiner has properly identified the claimed elements in the prior art reference, we must begin with a determination of the scope of the claim which must then be compared with the teachings of Bilger in order to ascertain whether the claims are patentable over the prior art reference. Claim interpretation must begin with the language of the claim itself. See SmithKline Diagnostics, Inc. v. Helena Laboratories Corp., 859 F.2d 878, 882, 8 USPQ2d 1468, 1472 (Fed. Cir. 1988).

We agree with the Examiner (answer, page 8) that the claim does not include any specific feature for confirming the security of the data-entry apparatus or determining the level of security of the system. Therefore, we remain unconvinced by Appellants' argument (reply brief, page 4) that the claim requires a positive confirmation of the security of the apparatus and the display of the PIN pad would not be sufficient for confirming the security of the data-entry apparatus. In fact, any measure of security such as the display of the PIN pad associated with the switch to encryption mode may reasonably be interpreted as the claimed displayed information that confirms the security of the device.

After reviewing Bilger, we find the Examiner's position (answer, page 6) that displaying the PIN pad indicates a secure mode for the data-entry device to be reasonable. Bilger combines a touch screen and a PIN pad into a single secure device (col. 1, lines 45-47) wherein a toggling means toggles between encryption and non-encryption modes corresponding to PIN and data entry modes, respectively (col. 1, lines 52-62). Therefore, the display of the PIN pad and the arrangement for transmitting the encrypted data to a remote processor do coincide in Bilger.

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Therefore, we remain unconvinced by Appellants' arguments that displaying information confirming the security of the data-entry apparatus requires anything more than Bilger's displaying a PIN pad which confirms the security of the device to the user. Accordingly, the 35 U.S.C. § 102(e) rejection of claim 1, as well as claims 2-4 and 6, argued together as falling with claim 1, over Bilger is sustained.

Turning now to the rejection of claim 5, we note that Appellants have not challenged its rejection with any reasonable specificity by merely stating that Chasko does not disclose a security icon and cannot cure the deficiencies of Bilger (brief, page 9). Therefore, we also sustain the 35 U.S.C. § 103 rejection of claim 5 over Bilger and Chasko.

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CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1-4 and 6 under 35 U.S.C. § 102 and rejecting claim 5 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 136(a)(1)(iv).

AFFIRMED

JOSEPH F. RUGGIERO

JOSEPH F. RUGGIERO
Administrative Patent Judge

Marshall D. Gaddall

MAHSHID D. SAADAT
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
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JEAN R. HOMERE
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